

Exhibit 5

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

Q+ FOOD, LLC; LAWRENCE BARTON d/b/a
LEGEND MEATS, LLC; ENCORE PIANO &
ORGAN MOVING, LLC; ALL AMERICAN
MOVING AND STORAGE DELIVERY, LLC;
and WEST LUMBER & BUILDING SUPPLY
CORP; individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

MITSUBISHI FUSO TRUCK OF AMERICA,
INC.,

Defendant.

Civ. No. 14-cv-06046-MAS-DEA

Document electronically filed.

DECLARATION OF MARC A. GOLDICH

I, Marc A. Goldich, declare as follows:

1. I am a partner at the law firm of Axler Goldich LLC (the "Firm" or "Axler Goldich"). I am admitted to practice in Pennsylvania, New Jersey, and multiple circuit and federal courts.
2. Axler Goldich has actively participated in the Litigation, including, but not limited to: (1) case investigation; (2) retention of and communication with class representative plaintiffs; (3) informal discovery and exchange of information; (4) drafting of pleadings; (5) legal research; (6) drafting of motions and briefs; (7) participating in Litigation strategy decisions; (8) participating in settlement negotiations; and (9) communicating with class members throughout the course of the Litigation. Thus, I am fully familiar with the proceedings. If called upon, I am competent to testify that the following facts are true and correct to the best of my knowledge, information, and belief.

3. I submit this declaration in support of Class Counsel's Motion for an Award of Attorneys' Fees and Costs and for Class Representative Service Awards.

4. Axler Goldich has dedicated significant time and resources to investigating and resolving this Litigation on behalf of the class. The Firm's legal services were performed on a wholly contingent fee basis.

5. The Firm maintained detailed time records regarding the work performed in connection with the prosecution of the Litigation. Attached hereto as Exhibit "1" is a time and expense summary chart relating to the Litigation. This chart was completed by the Firm based upon the records created by the Firm during the pendency of this Litigation.

6. The total number of hours spent by the attorneys, paralegals and law clerks working on behalf of Axler Goldich in the Litigation is 530.00. As reflected in Exhibit "1," through December 31, 2016, Axler Goldich has accumulated a lodestar totaling \$300,810.00.

7. The Firm's hourly rates range, from \$150 for certain paralegal work, to up \$750 for senior, experienced litigation counsel. Based on my knowledge and experience, the hourly rates charged by Axler Goldich are well within the range of market rates charged by attorneys of equivalent experience, skill, and expertise. These and similar rates for certain firm attorneys have been approved by courts in other class action cases, including: *Murray v. Accor North America, Inc.*, No. 15-4907 (E.D. Pa. Dec. 20, 2016) (Dkt. 36) (approving hourly rate of \$600 for Mr. Axler and \$550 for Mr. Goldich); *Smith v. Levine Leichtman*, No. 10-10 (N.D. Cal. Mar. 26, 2014) (Dkt. 325) (approving hourly rate of \$500 for Mr. Axler); *Sonoda v. Amerisave Mortgage Corp.*, No. 11-1803-EMC (N.D. Cal. Mar. 4, 2013) (Dkt. 111) (approving hourly rate of \$500 for Mr. Axler); *Whitehead-Bey v. Advantage Assets II, Inc.*, No. 11-5199 (E.D. Pa. July 16, 2012)

(Doc. 33) (approving hourly rate of \$500 for Mr. Axler); *Craddock v. Hayt, Hayt, & Landau, LLC*, No. 09-595 (D.N.J. July 6, 2011) (Doc. 35) (approving hourly rate of \$500 for Mr. Axler).

8. The Firm, to date, has also expended a total of \$3525.81 in unreimbursed expenses in connection with the prosecution of the Litigation. These expenses, as reflected on Exhibit "2" consist of transportation and travel expenses and computer and research charges.

9. These expenses are reflected in the books and records of Axler Goldich and have been prepared from expense vouchers, receipts, statements and other records and are a true and accurate summary of the expenses incurred in the Litigation. The expenses for which reimbursement is sought all were necessarily incurred and are reasonable in amount.

10. Attached as Exhibit "3" is the firm biography of Axler Goldich LLC, which further supports the Motion for an Award of Attorney's Fees and Expenses.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this declaration was executed on this 11th day of January, 2017, in Philadelphia, Pennsylvania.

Dated: January 11, 2017



Marc A. Goldich

EXHIBIT 1

Axler Goldich LLC

Time Expense Summary

Q+ Foods, LLC et al. v. Mitsubishi Fuso Truck of America, Inc.

ATTORNEYS (*P, A, C)	TOTAL HOURS	HOURLY RATE	CUMULATIVE LODESTAR
Marc Goldich (P)	345.00	\$600.00	\$207,000.00
Noah Axler (P)	106.70	\$600.00	\$64,020.00
Matthew Strout (A)	64.30	\$300.00	\$19,290.00
David Jacoby (C)	14.00	\$750	\$10,500.00
Attorney Totals:	530.00		\$300,810.00
NON-ATTORNEYS	TOTAL HOURS	HOURLY RATE	CUMULATIVE LODESTAR
Non-Attorney Totals:	0.00	N/A	0.00
TOTALS:	530.00		\$300,810.00

*Status:

P= Partner;

A = Associate;

C = Counsel

EXHIBIT 2

Q+Food LLC, et al. v. Mitsubishi Fuso Truck of America, Inc.

EXPENSE REPORT

AXLER GOLDICH

1520 Locust Street, Suite 301
Philadelphia, PA 19102

<u>Description</u>	<u>Cumulative Total</u>
Travel and Meal Expenses	\$2642.09
Lodging	\$655.03
Legal Research	\$228.69
TOTAL EXPENSES	\$3525.81

EXHIBIT 3

AXLER | GOLDICH^{LLC}

ATTORNEYS AT LAW

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Philadelphia, PA 19102
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Axler Goldich LLC, based in Philadelphia, is a class action and consumer litigation firm whose lawyers have recovered millions of dollars for consumers, injured individuals and their families. The firm has the ability to devote skilled lawyers and the resources necessary to the successful prosecution of complex class-action and individual litigation. By concentrating exclusively on representing those harmed by the misconduct and negligence of corporations, the firm avoids the conflicts of interest, both actual and philosophical, that can arise from multi-faceted representation, and is able to offer the kind of hard-hitting approach that complex plaintiffs' litigation demands.

Marc A. Goldich and Noah Axler, co-managing partners of the firm, have served or are currently serving as lead counsel, co-lead counsel, or in other leadership positions in a wide variety of class-action cases. See, e.g., *Livi, et al. v. Hyatt Hotels Corp.*, 2:15-cv-05371 (E.D. Pa.); *In re Pacquiao-Mayweather Boxing Match Pay-Per-View Litigation*, MDL No. 2:15-md-02639-RGK, (C.D.Cal.); *Murray, et al. v. Accor North America, Inc., et al.*, 2:15-cv-04907 (E.D. Pa.); *King v. General Information Services Inc.*, No. 10-06850 (E.D. Pa.); *Smith v. Levine Leichtman Capital Partners, Inc.*, No. 10-10 (N.D. Cal.); *Sonoda v. Amerisave Mortgage Corp.*, No. 11-1803 (N.D. Cal.); *Brown v. Access Midstream Partners, L.P.*, 2015 WL 1471598 (M.D. Pa. Mar. 31, 2015); *Little v. LGE*, No. 13-1214 (W.D. Ky.); *Rothstein v. AAA*, No. 15-cv-09391-LAK-RLE (S.D.N.Y.); *Riaubia v. Hyundai Motor Company*, No. 2:16-cv-05150-CDJ (E.D. Pa.); *In re Seagate Technologies, LLC*, No. 5:16-cv-00523 (N.D.Cal.).

Prior to founding Axler Goldich, Mr. Goldich was at a prominent plaintiffs' firm with a practice focused on consumer protection class action, products liability, qui tam/whistleblower, pharmaceutical litigation and mass tort litigation. Mr. Goldich also previously maintained a commercial litigation practice for more than a decade at Reed Smith LLP, representing Fortune 500 companies and corporate clients from various industries in complex commercial litigation and consumer class-action cases.

Prior to founding Axler Goldich, Mr. Axler was a partner at Donovan Axler LLC, a nationally recognized plaintiffs' class-action litigation firm, where he litigated numerous class-action cases, including consumer, antitrust, employment and environmental actions, and was repeatedly appointed lead counsel or co-lead counsel to represent plaintiff classes in state and federal courts throughout the country.

David Jacoby, of counsel to Axler Goldich, is also highly regarded and experienced in individual and class-action cases. Mr. Jacoby has more than 40 years of experience representing consumers and aggrieved plaintiffs. He was named a finalist for Trial Attorney of the Year by Lawyers for Public Justice, has tried numerous multimillion-dollar

cases to verdict, served as liaison and trial counsel in the *In re Diet Drugs* state class-action litigation, liaison in the *In re Propulsid* class-action litigation and recently participated as trial counsel in the *In re Risperdal* trials in the Court of Common Pleas, Philadelphia County, Philadelphia.

MARC A. GOLDICH

Mr. Goldich co-manages the firm's practice with a focus on class action, consumer protection, products liability, qui tam/whistleblower and mass tort litigation. Mr. Goldich's practice is largely focused on representing consumers and families in class-action cases against corporate defendants such as automobile manufacturers, pharmaceutical manufacturers, financial institutions, and national and international corporations in a variety of industries.

Prior to founding Axler Goldich LLC, Mr. Goldich was at a prominent plaintiffs' firm with a practice focused on consumer protection class action, products liability, qui tam/whistleblower, pharmaceutical litigation and mass tort litigation. Mr. Goldich also previously maintained a commercial litigation practice for more than a decade at Reed Smith LLP, representing fortune 500 companies and corporate clients from various industries in complex commercial litigation, serving in lead roles on trial teams in consumer class-action cases involving consumer protection, breach of contract and fraud. See, e.g., *White, et al. v. The PNC Financial Services Group, Inc., et al.*, Civil Action No. 2:11-cv-07928-L (E.D. Pa.); *Judith Cunningham, et al. v. M & T Bank Corp., et al.*, Civil Action No. 1:12-CV-123 (M.D. Pa.); *Commonwealth of Pennsylvania v. Vahan Karian and Pure Weight Loss, Inc.*, Commonwealth Court of Pennsylvania; No. 36 M.D. 2008; *Ferrare v. IDT Energy, Inc.*, No. 14-4658 (E.D. Pa.). Mr. Goldich's practice also included leadership roles in other high stakes, complex commercial litigation, see, e.g., *WellSpan Health, et al. v. Quantum Imaging & Therapeutic Associates, Inc., et al.*, York Co. Court of Common Pleas, Case No. 2007-SU-5039-Y01. Mr. Goldich also represented Fortune 500 companies and their employees in connection with regulatory proceedings. See, e.g., *In the Matter of National Century Financial Enterprises, Inc.*, United States Securities and Exchange Commission, No. C-03688; *Department of Enforcement v. Suzanne K. Courter-Jann*, FINRA Disciplinary Proceeding No. 2007011550101 (CRD No. 1282573).

Among many other matters, Mr. Goldich is currently serving on the leadership *In re Pacquiao-Mayweather Boxing Match Pay-Per-View MDL* litigation (MDL No. 2639, 2:15-md-02639-RGK), is co-lead counsel in two wage-and-hour class-action cases pending in federal court, *Murray, et al. v. Accor North America, Inc., et al.*, No. 2:15-cv-04907-JD (E.D. Pa.), *Livi, et al. v. Hyatt Hotels Corp., et al.*, No. 2:15-cv-05371-CDJ (E.D. Pa.). He is co-counsel in the nationwide warranty class-action pending in Northern District of California, *In re Seagate Technologies, LLC*, No. 5:16-cv-00523 (N.D.Cal.) and in a warranty class action currently pending in the Eastern District of Pennsylvania, *Riaubia v. Hyundai Motor Company*, No. 2:16-cv-05150-CDJ (E.D. Pa.), and has served on the discovery committee for the *In re Xarelto* mass tort pending in Pennsylvania state court.

Mr. Goldich's work on behalf of clients has been regularly acknowledged by his peers, as he has been identified as one of only 38 "Lawyers on the Fast Track" in Pennsylvania by American Law Media and has been consistently named in Pennsylvania Super Lawyers magazine. His commitment to pro bono work was acknowledged in 2008 and 2010, as he was listed in the annual "Pro Bono Honor Roll" and named an "Unsung Hero" by The Legal Intelligencer for his work on behalf of indigent clients.

Furthermore, Mr. Goldich has also authored numerous publications, such as:

- To Bundle or Not to Bundle: Public Company Strategies in Packaging Corrective Disclosures in Press

Releases, ADLAW By Request, 18 July 2008;

- Charter Service: How The New Rule Impacts You, Mass Transit, 9 May 2008;
- The Federal Transit Administration Releases Its Final Rule on Charter Service, Reed Smith Client Alerts, 17 March 2008;
- Mortgage Lenders And Servicers Should Evaluate And Streamline Their Pre-Foreclosure Notice Procedures to Avoid Pitfalls, 67 Consumer Fin. L. Q. Rep. 178 (2013);
- FRCP Amendments Could Change Discovery As We know It, Law360 Expert Analysis Section, 4 June 2013;
- Differing Opinions From PA On FRCP Amendments, Law360 Expert Analysis Section, 19 Feb 2014

In accordance with his philanthropic interests Mr. Goldich is a member of the Board of Directors in several organizations including his service as Secretary of the Board of the Welcoming Center for New Pennsylvanians and on the Board of Directors of the Elmwood Park Zoo. Furthermore, he has an extensive history of volunteer work with organizations such as Children's Crisis Treatment Center, where he has served in numerous leadership capacities. He is also active in numerous bar associations and was appointed to the Federal Practice and Court Committees of both the Philadelphia and Pennsylvania Bar Associations, is an active member of the American Bar Association, and the Montgomery Bar Association. He is also a member of the World Affairs Council of Philadelphia and the Historical Society of the U.S.D.C., Eastern District of Pennsylvania.

NOAH AXLER

Mr. Axler co-manages the firm's practice with a focus on class action, consumer protection, products liability, qui tam/whistleblower and mass tort litigation. Mr. Axler's practice is largely focused on representing consumers in class-action cases against corporate defendants such as automobile pharmaceutical manufacturers, financial institutions, and national and international corporations in a variety of industries.

Prior to founding Axler Goldich, Mr. Axler was a partner at Donovan Axler LLC, a nationally recognized plaintiffs' class action litigation firm, where he litigated numerous class-action cases, including consumer, antitrust, employment and environmental actions, and was appointed lead counsel or co-lead counsel to represent plaintiff classes in numerous class actions.

Some of Mr. Axler's representative class and collective action settlements include *Sonoda v. Amerisave Mortgage Corp.*, No. 11-1803 (N.D. Cal.) (alleging violations of Truth in Lending Act and California law against online mortgage broker, resulting in \$3.2 million settlement); *Smith v. Levine Leichtman Capital Partners, Inc., et al.*, No. 10-10 (N.D. Cal.) (alleging violation of RICO and debt collection laws against bad check recovery Company, resulting in \$3.25 million settlement); *Murray, et al. v. Accor North America, Inc., et al.*, 2:15-cv-04907 (E.D. Pa.) (alleging failure to pay overtime and resulting in 100% recovery of overtime wages).

A sample of Mr. Axler's reported decisions include: *Brown v. Access Midstream Partners, L.P.*, No. 3:14-591, 2015 WL 5829755 (M.D. Pa. Sept. 30, 2015) (defeating motions to dismiss as to all defendants in class action seeking underpayment of natural gas royalties, under RICO and state law); *Haber v. Bank of America, N.A.*, No. 14-0169,

2014 WL 2921659 (E.D. Pa. June 27, 2014) (defeating motion to dismiss on two of three counts in consumer class action, under Fair Debt Collection Practices Act ("FDCPA") and FCRA); *Little v. Louisville Gas and Electric Co.*, 33 F. Supp. 3d 791 (W.D. Ky. 2014) (defeating in part motion to dismiss in environmental class action, under Clean Air Act, RCRA, and Kentucky law); *Little v. Louisville Gas and Electric Co.*, --F.3d--, 2015 WL 6646984 (6th Cir. 2015) (affirming denial of motion to dismiss); *Newton v. Savit Collection Agency*, No. 09-4911, 2011 WL 6724034 (D.N.J. Dec. 21, 2011) (defeating summary judgment in consumer class action, under FDCPA); and *Sonoda v. Amerisave Mortgage Corp.*, No. 11-1803, 2011 WL 2653565 (N.D. Cal. Jul. 6, 2011) (defeating motion to transfer venue in consumer class action, under TILA and California law).

Mr. Axler is also the author of a number of publications on class-action and consumer litigation topics, including:

- Survey of State Class Action Law (ABA 2012-2015) (co-author of Pennsylvania chapter);
- Pennsylvania Consumer Law (Bisel 2012-2014) (author of usury chapter);
- The Explosion & Evolution of Class Action Law (PBI 2004) (co-author).

DAVID JACOBY

Mr. Jacoby has devoted his entire professional career to helping those harmed by defective products. He is presently involved in numerous mass tort and class-action lawsuits. His experience in mass tort and class-action litigation began in the mid 1970s when he represented thousands of asbestos victims in state and federal courts around the country. He has tried numerous cases to verdict and his asbestos settlements exceeded \$100 million. He then represented numerous victims in TEL (Tetra-ethyl lead) litigation resulting in a multimillion-dollar settlement.

For instance, Mr. Jacoby was one of the trial counsel in the diet drug (Fen-Phen) litigation resulting ultimately in a nationwide settlement in excess of \$6 billion. He was appointed by the NJ Superior Court Judge Marina Corodemus as liaison counsel in that litigation. Subsequently he was appointed as liaison counsel between state and federal courts in the Propulsid litigation before Judge Eldon Fallon in New Orleans, Louisiana. Mr. Jacoby has represented numerous victims of silicone breast implants in MDL litigation. He was then appointed liaison counsel on the mass tort Vioxx litigation before Judge Carol Higbee in Atlantic City, New Jersey and represented hundreds of plaintiffs in this class action which ultimately resulted in a nationwide settlement of over \$6 billion. Recently, Mr. Jacoby participated in the Risperdal trials in the Court of Common Pleas, Philadelphia County, Philadelphia. He has frequently been cited in case law most including for his successful jury verdict and subsequent Supreme Court of New Jersey arguments effecting a major change in New Jersey law permitting a civil lawsuit by an employee against his employer for deliberate harm.

He has received numerous awards and distinctions over his career from the White Lung Association (Asbestos victims) and Lawyers for Public Justice where he was named one of five finalists for Trial Attorney of the Year. He is an AV Rated Attorney whom has received recognition as a Super Lawyer both in New Jersey and Pennsylvania. He has published material in a book on Asbestos regarding the legal aspects. Furthermore, he is frequently cited in other publications.

His background includes graduation from Rutgers College, New Brunswick, NJ, with honors and distinction (Henry Rutgers Scholar) and George Washington University Law School, Washington, D.C. (with honors and Order of the Coif). For 10 years, he was an adjunct professor of law at Rutgers Camden School of Law teaching Trial Advocacy.

He has argued class-action and mass tort cases before the New Jersey Supreme Court, numerous state and federal courts, and the 2nd, 3rd and 4th Federal Circuit Courts of Appeal. Mr. Jacoby has spoken at numerous seminars and conferences on varied subjects involving class-action and mass tort litigation. He is a member of the New Jersey Bar.

MATTHEW STROUT

Matthew Strout was an associate at a prominent plaintiffs' firm where he maintained a busy mass tort, personal injury, and consumer class action practice. He also previously interned at two prosecutor's offices (Phila D.A. and Camden County Prosecutor's Office), two public interest firms (Sheller Center for Social Justice and the Pennsylvania Innocence Project) and two public policy organizations (American Civil Liberties Union and Pennsylvanians for Modern Courts).

Mr. Strout graduated summa cum laude from the University of Maine with a degree in Political Science (2010) and graduated cum laude from Temple University Beasley School of Law (2015) where he was a Rubin Public Interest Law Honor Society Fellow.

AWARDS

Pennsylvania Super Lawyers Rising Star

Marc A. Goldich, 2013-2016

Lawyer on the Fast Track, American Lawyer Media / The Legal Intelligencer

Marc A. Goldich, 2013

Pro Bono Honor Roll, E.D.P.A.

Marc A. Goldich, 2010

Pro Bono Unsung Hero

Marc A. Goldich, 2008

Super Lawyer, Super Lawyers Magazine

Noah Axler, 2014-2016

Rising Star, Super Lawyers Magazine

Noah Axler, 2007, 2010-2011

Trial Attorney of the Year, White Lung Association (Asbestos victims)
and Lawyers for Public Justice

David Jacoby

AV Rated Attorney, the highest possible peer review in legal ability and ethical standard.

David Jacoby

Super Lawyer in both New Jersey and Pennsylvania

David Jacoby

Published material in a book on Asbestos regarding legal aspects and frequently cited in other publications.

David Jacoby